

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

JANET M. SONNENMAIR

Plaintiff,

- against -

AFROPUNK LLC

Defendant.

Docket No. 18-cv-2913

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Janet M. Sonnenmair (“Sonnenmair” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Afropunk LLC (“Afropunk” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyright photograph of activist Devonte Hart and a police officer. The photograph is owned and registered by Sonnenmair, a photographer. Accordingly, Plaintiff seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

### **PARTIES**

5. Sonnenmair is a photographer having a usual place of business at 6700 SE Stark Street, Portland, Oregon 97215.

6. Upon information and belief, Afropunk is a domestic limited liability company duly organized and existing under the laws of New York with a principal place of business at 350 Grand Avenue, Brooklyn 11238.

7. At all times material hereto, Defendant has owned and operated a website at the URL: [www.afropunk.com](http://www.afropunk.com) (the “Website”).

8. Afropunk is a for-profit entity.

### **STATEMENT OF FACTS**

#### **A. Background and Plaintiff’s Ownership of the Photographs**

9. In 2014, Sonnenmair photographed activist Devonte Hart and a police officer. (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

10. On or about December 31, 2014, the Photograph was published in *The San Francisco Chronicle*.

11. Sonnenmair is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

12. The Photograph was registered with the U.S. Copyright Office and was given Copyright Registration Number VAu 1-193-400, effective as of December 2, 2014 (the “400 Registration”). A true and correct copy of the 400 Registration, as maintained by the Copyright Office website, is attached hereto as Exhibit B.

#### **B. Defendant’s Infringing Activities**

13. Upon information and belief, on April 5, 2018, Defendant ran an article on the Website entitled *The Deaths of Devonte Hart and His Siblings is Why We Don't Trust White Allies*. See <http://afropunk.com/2018/04/the-deaths-of-devonte-hart-and-his-siblings-is-why-we-dont-trust-white-allies/> (the "Article").

14. Defendant's Article prominently features the Photograph. Screenshots of the Article as it appears on the Website are attached hereto as Exhibit C.

15. Commercial advertisements appear adjacent to, above or below the Photograph as they appear on Defendant's Website.

16. Defendant did not license the Photograph from Plaintiff for its Article.

17. Defendant did not have Plaintiff's permission or consent to publish the Photograph on its Website.

18. Prior to displaying the Photograph on the Website, Defendant did not communicate with Plaintiff.

**CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST AFROPUNK)**  
(17 U.S.C. §§ 106, 501)

19. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-18 above.

20. Defendant infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photographs on the Website.

21. Defendant is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

22. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

23. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

24. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

25. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

26. Plaintiff is further entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

27. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant AFROPUNK be adjudged to have infringed upon Plaintiff's copyright in the Photographs in violation of 17 U.S.C §§ 106 and 501;
2. That Defendant AFROPUNK be ordered to remove the Photograph from its Article on the Website;

3. That Plaintiff be awarded either: (a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or (b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
4. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
5. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
6. That Plaintiff be awarded pre-judgment interest; and
7. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
May 16, 2018

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